

**III. Remarks****A. Examiner Interview**

The undersigned is grateful to Examiners Buckle Jr. and Canfield for their courtesy during the telephonic interview conducted on May 27, 2009. During the interview, the parties discussed the disclosure of U.S. Patent No. 5,465,547 to Jakel and a draft amendment to the claims, which has not been presented in this Response. A summary of the interview is contained in the Interview Summary dated June 2, 2009.

**B. Objection to the Specification**

The Action objects to the Specification for not providing antecedent basis for “a region of increasing thickness” and for “a transition region.” This objection is moot in view of the amendments to the claims.

**C. Objection to Claim 25**

The Action objects to claim 25 for various typographical errors. This objection is also moot in view of the amendments to claim 25.

**D. Amendments to the Claims**

Each of independent claims 1, 9, 17 and 25 has been amended to direct the claims to the embodiment of the siding panel shown in, for example, FIGS. 6 and 7. As described in the application, ¶ 21, the panel of FIG. 6 has a first area 306 that does not contain the protruding area described in connection with the panel 100 of FIG. 4. Rather, the longitudinal area 306 has a continuous thickness along its length and is angled (or bent) with respect to the remainder of the main body portion of the panel such that the rear face of the panel is seated flush against the wall 110 along the length of the panel when the bottom portion of the panel is seated on an overlapped panel away from the wall 110. As shown the two faces of the rear surface are angled with respect to each other (at either an obtuse or acute angled depending upon the view point).

This angle is formed at an elbow of the panel where the two faces of the rear surface meet. Since the top portion of the front surface is parallel to the top portion of the rear surface, the front surface also provides two faces angled with respect to one another that meet at the elbow of the panel. As discussed below, the prior art of record does not teach or suggest such a siding panel.

**E. Rejection under 35 U.S.C. § 102**

**1. Claims 1 and 3**

The Action rejects claims 1 and 3 as being anticipated by Jakel. Claim 1 has been amended to recite as follows:

the siding panel having a first longitudinal area of substantially uniform thickness extending for the length of the siding panel, wherein in the first longitudinal area the front and rear faces of the siding panel have parallel faces extending from the top face to an elbow along the length of the siding panel, wherein from the elbow to the bottom face the front and rear faces extend at an angle with respect to the front and rear faces in the first longitudinal area, wherein when the siding panel is secured to a wall with a bottom end thereof partially overlapping a second siding panel secured below said siding panel, the rear face in the first longitudinal area sits flush with a portion of the wall to which the siding panel is secured so that the wall can provide support for said rear face against burst fractures from fasteners driven through the first longitudinal area.

As discussed below, the Applicant submits that these amendments materially distinguish the siding panel of claim 1 from the roofing tile disclosed in Jakel.

As best seen in FIGS. 1 and 2 of Jakel, at the top end of Jakel's tile, the front and rear faces do not extend parallel to one another; rather, the faces diverge from one another, starting at the top end 54 as the thickness of the panel increases. The top surface 52 extends at an angle " $\alpha$ " relative to supporting roofing 62 and the portion 51a of the rear surface that sit flat on the roofing 62. This divergence keeps portion 51a of the rear face 51 in contact with the roofing 62 to provide localized planar support 67. (Col. 2, Lines 38-52). The top surface 52 and the bottom

surface 51 do not extend parallel to one another as claimed in the area that begins at the top face 54 of the tile 50 of Jakel.

Further, it should also be noted that as shown in the drawings of Jakel, the front surface 52 of Jakel's tile is completely planar. That is, there are no discrete portions of front surface 52 of Jakel's panel that meet at "an elbow" and are angled with respect to each other as claimed in amended claim 1.

For at least these reasons, it is submitted that, notwithstanding the fact that Jakel's roofing tile is not a "siding panel" as claimed, Jakel (alone or in combination with the art of record, does not teach or suggest a siding panel where:

(i) the siding panel has a first longitudinal area of substantially uniform thickness extending for the length of the siding panel, wherein in the first longitudinal area the front and rear faces of the siding panel have parallel faces extending from the top face to an elbow along the length of the siding panel,

(ii) wherein from the elbow to the bottom face the front and rear faces extend at an angle with respect to the front and rear faces in the first longitudinal area, and

(iii) wherein when the siding panel is secured to a wall with a bottom end thereof partially overlapping a second siding panel secured below said siding panel, the rear face in the first longitudinal area sits flush with a portion of the wall to which the siding panel is secured so that the wall can provide support for said rear face against burst fractures from fasteners driven through the first longitudinal area.

For at least these reasons, it is submitted that claim 1 and claim 3, which depends from claim 1, are in allowable form.

**F. Rejection under 35 U.S.C. § 103****1. Claims 2, 27 and 29**

The Action rejects claims 2, 27 and 29 as being obvious from Jakel in view of Applicant's Admitted Prior Art. Claim 2 depends from claim 1 and is allowable for at least the reasons set forth above in connection with claim 1. Claim 27 and 29 have been canceled. Therefore, the rejection of those claims is moot.

**2. Claims 4 and 8**

The Action rejects claims 4 and 8 as being obvious from Jakel in view of U.S. Published Application No. 2002/0139082 to DeFord et al.

Claims 4 and 8 depend from claim 1 and are, therefore, in allowable form.

**3. Claim 6 and 7**

The Action rejects claims 6 and 7 as being obvious from Jakel. Claims 6 and 7 depend from claim 1 and are, therefore, allowable for at least the reasons set forth above in connection with claim 1.

**4. Claims 9-10, 12-13, 15-17, 19, 22-26 and 30**

The Action rejects claims 9-10, 12-13, 25-26 and 30 as being obvious from Jakel in view of DeFord.

In rejecting independent claim 9, the Examiner concludes that Jakel teaches a siding panel assembly that is attached to a vertical wall of a structure. However, Jakel discloses roofing tiles or shingles 50, not siding panels as claimed. These tiles or shingles are installed on support roofing 62, not on the vertical wall of a structure. Jakel's sloped roof is neither "vertical" nor a "wall." Therefore, contrary to the Examiner's assertion, Jakel does not disclose a siding panel assembly that is attached to a vertical wall of a structure as claimed in claim 9.

Further, claim 9 has been amended to recite that at least the first siding panel has a first longitudinal area of substantially uniform thickness extending for the length of the siding panel, wherein in the first longitudinal area the front and rear faces of the first siding panel have parallel faces extending from the top face to an elbow along the length of the siding panel, wherein from the elbow to the bottom face the front and rear faces extend at an angle with respect to the front and rear faces in the first longitudinal area such that the rear face in the first longitudinal area sits substantially flush with a portion of said vertical wall. For reasons discussed above in connection with claim 1, it is submitted that Jakel does not teach a siding panel having these feature.

Jakel also does not teach an assembly where the “vertical wall” provides support for the rear face against burst fractures from the fasteners disposed through the claimed longitudinal area. Notwithstanding Jakel’s deficiencies discussed above with respect to teaching siding panels on vertical walls, Jakel’s roofing tile has a cavity 70 that dominates the area where fasteners are likely to be driven. Perhaps for this reason, Jakel pre-drills fastener location holes 110. If fasteners are placed through the pre-drilled holes, then burst fractures are not an issue. If fasteners are driven through the large cavity 70 without the pre-drilled holes, the roof of Jakel cannot provide protection against burst fractures as claimed.

The Applicant acknowledges that the Examiner asserts in the Interview summary that column 3, first full paragraph (2<sup>nd</sup> paragraph) suggests (in the Examiner’s view) that having a panel with no cavities is well known. Panels with no cavities may exist, but Applicant submits that the art of record does not disclose such panels with Jakel’s unorthodox shape or the shape now claimed in the amended claims.

For at least these additional reasons, it is submitted that claim 9 is not obvious from the cited combination of references and is in allowable form.

Claims 10 and 12-13 and 15-16 depend from claim 9 and are, therefore, allowable for at least the reasons set forth above in connection with claim 9.

Independent method claim 17 has been amended to recite features that parallel those of amended claim 1. Claim 17, therefore, is allowable for at least the reasons set forth above in connection with claim 1. Still further, claim 17 is directed to a method of installing a siding panel assembly on a vertical wall of a structure. As discussed in connection with claim 9, Jakel discloses installation of roof tiles on roofing, not siding panels on a vertical wall of a structure. A sloped roof is neither “vertical” nor a “wall.” For these additional reasons, it is submitted that claim 17 and claims 19 and 22-24, which depend from claim 19, are allowable over the art of record.

Independent claim 25 has been amended to recites features that parallel those of amended claim 1. Claim 25 is, therefore, allowable for reasons analogous to set forth above in connection with claim 1.

Still further, claim 25 now recites that the rectangular shaped clapboard siding panel has “a length substantially greater than its height.” Support for this amendment can be found in, for example, ¶ 13 of the application as filed. As discussed above, Jakel’s disclosure is related to roofing tiles or shingles. Fig. 3A illustrates that the tile’s longitudinal length is not only not “substantially longer than it height” but actually shorter than its height. By this amendment, Applicant submits that the long “siding panel” of claim 25 is further distinguished from the short roofing tile of Jakel.

Moreover, claim 25 recites that the claimed first longitudinal area of substantially uniform thickness extending for the longitudinal length of the siding panel has “a height of at least about 1.0 inch” and “wherein the rear face in the longitudinal area is a continuous, uninterrupted planar surface arranged for continuous flush engagement with a vertical wall of a structure across the longitudinal length of the siding panel when the siding panel is secured to the

vertical wall with a bottom end thereof partially overlapping a second siding panel secured below said siding panel such that the vertical wall can provide support for said rear face against burst fractures from fasteners.” Notwithstanding the fact that Jakel does not disclose the longitudinal area as claimed (which has parallel front and rear faces and a uniform thickness), Jakel does not disclose the claimed at least 1.0 inch in height rear face in the longitudinal area that is a continuous, uninterrupted planar surface arranged for continuous flush engagement with the vertical wall as claimed. A large portion of Jakel’s rear surface includes recesses, such as recess 70, that Jakel uses to reduce the mass of the structure. Providing this longitudinal continuously planar rear face of at least 1.0 inch in height provides adequate room to drive fasteners through the claimed panel with the assurance that the entire area through which the fasteners are driven will sit flush with the wall, allowing the wall to provide the burst fracture protection recited in the claim. For these additional reasons, it is submitted that claim 25 is allowable over the cited combination of references.

Claims 26 and 30 depend from claim 25 and are, therefore, also in allowable form.

Reconsideration and withdrawal of the rejection of the claims are respectfully requested in view of the foregoing arguments and amendments.

**IV. Conclusion**


In view of the foregoing remarks and amendments, Applicant submits that this application is in condition for allowance at an early date, which action is earnestly solicited.

The Commissioner for Patents is hereby authorized to charge any additional fees or credit any excess payment that may be associated with this communication to deposit account **04-1679**.

Respectfully submitted,

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